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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/687,157

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John J. Sie

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08/14/2008

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EXAMINER

NGUYEN, PHILLIP H

ART UNIT

PAPER NUMBER

2191

MAIL DATE

DELIVERY MODE

08/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/687,157	<b>Applicant(s)</b> SIE ET AL.	
	<b>Examiner</b> Phillip H. Nguyen	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7,8,10-15,17,18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,8,10-15,17,18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment filed 4/18/2008.
2. Per applicant's request, claims 23 and 24 are newly added; Claims 1, 2, 4, 5, 7, 8, 10-15, 17, 18, and 20-24 remain pending and have been considered below.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 2, 4, 5, 7, 8, 10-15, 17, 18, and 20-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 5, 7, 8, 10-15, 17, 18, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Youden et al. (USPN 5,606,359).

### **As per claims 1, 8, and 14**

Youden teaches

receiving a command from the content distributor to store the content at the user location before a user specifically requests the content, wherein the

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content comprises a subset of content available from the content distributor, the subset associated with a premium subscription service, and wherein the content comprises at least one of a video program or an audio program; processing the command sent from a remote location with respect to the user location; receiving the content at the user location; storing the content at the user location in response to at least the processing the command (see at least col. 10:52-54 *"To minimize this problem, the first five minutes of the two hundred most popular films can be "pre-stripped" to one or more disk arrays. A request for one of these films would be serviced quickly with the pre-stripped video data, while the remainder of the video data program is recalled from archival storage and transcribed to the disk array"* – a subset of video from the distributor has been pre-stripped (pre-stored) at the disk arrays); and

detecting a user action related to the content after storage of the content (see at least col. 10:36-37 *"a user, through his or her STB makes a request which is transmitted over one of the communication channels in distribution network 20"*).

As per claims 2 and 15:

Youden further teaches

wherein the content comprises at least one of a commercial, an infomercial, a show, or a movie (see at least col. 6:66 *"Data, usually MPEG video/audio data"*).

As per claims 4 and 17:

Youden further teaches

wherein the user location comprises a set top box (see at least col. 5:15

*“Client node 30 may comprise an individual user’s TV STB”).*

As per claims 5 and 18:

Youden further teaches

wherein the storing the content comprises storing the content on a mass storage device associated with a set top box that is associated with the user location (see at least col. 10:52-54 *“To minimize this problem, the first five minutes of the two hundred most popular films can be “pre-striped” to one or more disk arrays. A request for one of these films would be serviced quickly with the pre-striped video data, while the remainder of the video data program is recalled from archival storage and transcribed to the disk array”* – a subset of video from the distributor has been pre-striped (pre-stored) at the disk arrays).

As per claims 7, 10, and 20:

Youden further teaches

wherein the processing the command comprises determining usage rules related to the content (see at least col. 9:52-65 *“Unfortunately, video data cannot simply be read at a faster rate and then sent through the distribution network to*

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*the user. This would create a data stream with illegal timing stamps that cannot be decoded by the user's STB. Reading the data faster and only sending a portion of it to the user also creates an illegal data stream. For FR, these methods also fail, as a movie compressed in the MPEG format cannot be played backwards. If any images could be recovered using these methods, the image would be of low quality and they would require real time processing of the video data as well as the cooperation of the user's STB. In the present invention, a separate FF and FR version of each film is created" – because the video data cannot be read at a faster rate, a separate version of FF and FR is created to save bandwidth, storage space, and produce a high quality set of FF and FR images).*

As per claim 11:

Youden further teaches

*sending usage rules for the subset of content to the user location (see at least col. 10:15-17 "creating and storing FF and FR version of the films...").*

As per claim 12:

Youden further teaches

*wherein the subset of content is unmentioned in a linear schedule (the pre-striped content is not mentioned in a schedule).*

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As per claim 13:

Youden further teaches

broadcasting the subset of content to a plurality of user locations (see at least *FIG. 8*).

As per claim 21:

Youden further teaches

wherein the content distributor sends the content from a remote point with respect to the user location (see at least *FIG. 1*).

As per claim 22:

Youden further teaches

wherein the content is broadcast to a plurality of user locations, the broadcast is coextensive-in-time for the plurality of user locations, and the user location is part of the plurality of the user locations (see at least *FIG. 8*).

As per claims 23 and 24:

Youden further teaches

wherein the user location comprises a residence of the user (see at least col. 5:14-16 "*Client node 30 may comprises an individual user's TV STB, any general purposes computer, or any other entity capable of requesting and receiving video data*").

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip H. Nguyen whose telephone number is (571) 270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM - 3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN  
8/11/2008

/Wei Zhen/  
Supervisory Patent Examiner, Art Unit 2191



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